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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. 93-94
	)	
SCRIPPS HOWARD BROADCASTING	)	File No. BRCT-910603KX
COMPANY	)	
	)	
For Renewal of License	)	
Station WMAR-TV	)	
Baltimore, Maryland	)	
	)	
and	)	
	)	
FOUR JACKS BROADCASTING, INC.	)	File No. BPCT-910903KE
	)	
For Construction Permit for a	)	
New Television Facility on	)	
Channel 2 at Baltimore,	)	
Maryland	)	

To: Administrative Law Judge  
Richard L. Sippel

MASS MEDIA BUREAU'S OPPOSITION TO  
REQUEST TO CERTIFY APPLICATION FOR REVIEW

1. On April 8, 1993, Four Jacks Broadcasting, Inc. (Four Jacks) filed a Request to Certify Application for Review. The Mass Media Bureau hereby opposes Four Jacks' request.

2. Four Jacks contends that certification of its application for review of the Hearing Designation Order ("HDO"), in this proceeding, DA 93-340, released April 1, 1993, is warranted because the staff failed to specify an issue to determine the impact of anticompetitive misconduct on the part of a subsidiary of WMAR-TV licensee, Scripps Howard Broadcasting Company (Scripps Howard). According to Four Jacks, this misconduct had been raised in a Petition to Deny filed by Pacific

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West Cable Television (Pacwest) against the license renewal applications for KUPL and KUPL-FM, licensed to Scripps Howard. Upon the withdrawal of Pacwest's Petition to Deny, the Chief, Audio Services Division, by letter dated July 27, 1992, granted the Scripps Howard renewals. In doing so, however, he stated that, to the extent that Pacwest's Petition to Deny cross-referenced allegations made in its Petition for Reconsideration of Scripps Howard's acquisition of WMAR-TV, Baltimore, those matters did not adversely impact the grant of the KUPL/KUPL-FM renewal applications. The letter also specifically made no finding as to the impact of those allegations on WMAR-TV and stated that, "[t]hose allegations will be resolved in the context of the WMAR-TV proceeding." See Exhibit B to Four Jack's request for certification. Four Jacks contends that the failure to include an issue as to those matters in the instant proceeding was manifest error requiring immediate certification of its appeal.

3. The Bureau disagrees with Four Jacks that this matter requires the certification of its appeal. It is true that the July 27, 1992, letter did state that the antitrust allegations would be resolved in the context of the WMAR-TV proceeding. However, the Audio Services Division was unaware of the fact that, in response to a request by Pacwest to withdraw its Petition for Reconsideration, the staff had already dismissed that petition and resolved the allegations contained therein.

See letter dated February 22, 1991 (attached hereto), wherein the Chief, Television Branch, dismissed Pacwest's Petition for Reconsideration and granted the application assigning the license of WMAR-TV from Gillette Broadcasting of Maryland, Inc. to Scripps Howard. In that letter it is noted that, despite Pacwest's request for withdrawal of its Petition for Reconsideration, the staff had "fully considered the matters set forth ... and conclude that there are no substantial and material questions of fact that would warrant any further inquiry." Thus, the matter which Four Jacks claims warrants certification has already been fully considered and disposed of by the Commission.<sup>1</sup> Therefore, the staff correctly did not specify an issue relating

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<sup>1</sup> Four Jacks has apparently assumed that when the Chief, Audio Services Division, said in his July 27, 1992, letter that "[t]hose allegations would be considered in the context of the WMAR-TV proceeding," he was referring to the instant proceeding involving the Four Jacks application. This simply was not the case. In fact, the proceeding referred to was the proceeding to assign WMAR-TV.

to Scripps Howard's alleged anticompetitive conduct in the HDO.

4. In sum, the Bureau opposes certification of Four Jacks appeal.

Respectfully submitted,  
Roy J. Stewart  
Chief, Mass Media Bureau

**CERTIFICATE OF SERVICE**

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 19th day of April 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments on Request to Certify Application for Review"** to:

Donald P. Zeifang, Esq.  
Kenneth C. Howard, Esq.  
Baker & Hostetler  
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Attachment

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RECEIVED BY

Sol Schildhouse  
Farrow, Schildhouse & Wilson  
1400 16th Street, N.W.  
Suite 501  
Washington, D.C. 20036

Re: Assignment of WMAR-TV, Baltimore, MD  
File No. BALCT-900910KE

Dear Mr. Schildhouse:

This refers to your January 29, 1991 request on behalf of Pacific West Cable Television (PacWest) to withdraw its petition for reconsideration with regard to the Commission's approval of the assignment of license application for Station WMAR-TV, Baltimore, Maryland (BALCT-900910KE). In its request for withdrawal, PacWest states that it has neither sought nor received nor been promised any money or other consideration for withdrawing its petition for reconsideration. Further, PacWest states that there are no other arrangements, oral or written, among the petitioner and the applicants concerning this withdrawal.

Despite your request for withdrawal of these pleadings, we have nevertheless fully considered the matters set forth in them and conclude that there are no substantial and material questions of fact that would warrant any further inquiry. Booth American Co., 58 F.C.C. 2d 553, 554 (1976). Accordingly, the petition for reconsideration IS DISMISSED, and the grant of the application.